

LABOUR DEPARTMENT

The 23rd April, 1980

No. 11(112)-80-3-Lab./6036. --In pursuance of the provision of section 17 of the Industrial Dispute Act, 1947 (Act. No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workmen and the management of M/s. Managing Director, Hissar Central Co-operatives Banks, Ltd., Hissar.

BEFORE SHRI BANWARI LAL DALAL, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 264 of 1978

Between

SHRI KURA RAM, WORKMAN AND THE MANAGEMENT OF M/S. MANAGING DIRECTOR,
HISSAR CENTRAL CO-OPERATIVE BANK LTD., HISSAR.

Present: -Shri Sagar Ram Gupta, for the workman.
Nemo for the respondent management.

AWARD

By order No. ID/HSR/15-78/42136, dated 18th September, 1978 the Governor of Haryana refer the following dispute between the management of M/s. Managing Director, Hissar Central Co-operative Bank Ltd., Hissar and its workman Shri Kura Ram to this Court for adjudication in exercise of the powers conferred by clause (c) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of service of Shri Kura Ram was justified and in order ? If not, to what relief is he entitled ?

On receipt of order of reference the notices as usual were sent to the parties. In response to the notices the parties put in their appearance. The workman filed his claim statement wherein he alleged that he was working on a permanent post with the management for over 3 years and his services were terminated by the management,—*vide* order dated 1st August, 1977 without assigning any reason. The termination order passed was illegal and so in complete violation of the principles of natural justice. Provisions of section 25F were not complied with and the juniors were retained in service.

The management filed the written statement. The applicant filed the rejoinder wherein he pointed out that the written statement was not addressed to the Labour Court, Rohtak and the same was amended on 1st May, 1979. On the basis of the pleadings of the parties the issue "As per reference" was framed on 11th June, 1979. Evidence of the management was recorded on 30th October, 1979. Shri Rajinder Kumar, Clerk of the respondent firm was examined as MW-1 who stated that the workman produced an affidavit at the time of his appointment in respect of his qualification as middle pass and he was appointed as Secretary, Primary Co-operative Agricultural Credit Society. The workman concerned was requested to produce his original educational qualification certificate,—*vide* letter Ex. MW-1/1. The workman wrote a letter in reply to Ex. MW-1/A that he was not in a position to produce the original qualification certificate. The copy of his reply is Ex. MW-1/C. After that the services of the workman were terminated,—*vide* Ex. MW-1/D. The MW-1 admitted that the workman was appointed,—*vide* WW-1. Ex. W-2 was also issued by the Bank and was unable to say whether the qualification was the Middle Standard minimum required for this post, and also could not tell whether there was other workman working in the bank who has not submitted any educational qualification certificate and had only given affidavits such as namely S/Shri Sultan Singh, Nanak Chand, Hari Chand, Ram Singh and Nihal Singh. The workman was asked to produce the certificate in the year 1975. In reply of the workman in this letter was not in the file. He could tell whether the workman ever wrote that he passed the middle standard from the Punjab University, Lahore in the year 1942 and he could not make available, the copy of that certificate and the witness could not say whether not producing the certificate by the workman was the only very reason for the termination and witness could not deny the fact that at the time of termination of the workman some juniors were also working with the management. He rather admitted that at present junior to the workman concerned were working with the management. He could not deny specifically whether the workman was not given one month notice before termination and retrenchment compensation was not given to him at the time of termination. The management in their written statement has alleged that the workman was appointed on probation and the probation period was extended up to 31st July, 1977. The minimum qualification required for the post of Secretary was the Middle Standard examination and at the time of selection the workman was directed to produce his educational qualification certificate and the workman had to produce the same. When the petitioner failed to produce the certificate the Managing Director issued a note on 15th July, 1977 and the workman was asked to produce a certificate on 26th July, 1977, —*vide* Ex. MW-1/A. The management has also alleged that the workman absented from his duty for the full month in 1977 and he was irregular in his duties and was warned several times and his work was also found unsatisfactory. The management has not been able to prove the allegations and has not produced even an iota of evidence on the un-satisfactory work of the workman or his being irregular

and remaining absent in April, 1977. After examining MW-1, the management did not lead their remaining evidence on 2-3 occasions and my learned predecessor passed orders for closing down the case of the management and for taking *ex parte* proceedings against the management on 19th November, 1979. The *ex parte* evidence of the workman was recorded on 28th January, 1980. The workman himself was examined as his own witness who stated that he joined the services of the management on 31st October, 1979 and was getting Rs. 400 as monthly salary. He was not served with any notice nor he was paid any retrenchment compensation at the time of his termination and the juniors were retained whose names were S/ Shri Sultan Singh, Nanak Chand, Hari Chand, Ram Singh and Nihal Singh, etc. and the management has employed workman after his termination and no condition was placed on him to produce the education qualification certificate at the time of his appointment. From the face of the evidence on the record the management has not been able to substantiate and corroborate their contention that as the workman was not able to produce educational certificate and his services were dispensed with on this ground, which the workman was bound to produce, his appointment being conditional subject to production of the same. The management could not deny that there were not other persons working in the bank who had also not produced the education qualification certificate in respect of their qualification. This fact was also not denied that the juniors to the workman concerned were still in the service of the management and new persons had also been employed after the termination of the workman, and the workman had been continuously working from 3rd October, 1974 to 1st October, 1977 and there was no evidence on the record that the workman was on probation. The workman shall be deemed to have been appointed against a regular post. It is well settled law that whatever the reasons every termination spells retrenchment. Termination of the services of the workman without giving any notice or paying retrenchment compensation at the time of his termination was necessary under the mandatory provisions of section 25-F of the Industrial Disputes Act, was illegal and void ab initio and relationships between employer and employee is not effected by such void retrenchment order and the employees shall be deemed to be in service despite purported order of retrenchment.

The termination order passed by the management reads as "The services of Shri Kura Ram, Ex-Manager, the Moth CC&SS are no longer required. So his services are hereby terminated with immediate effect." The words no longer required can be construed to mean retrenchment and when no conditions under section 25-F are complied with, than the order of termination become void and not operative in law. The termination order is hence unjustified and not in order rather is void ab initio and the workman shall be deemed to be in service continuously since his purported termination is entitled to Re-instatement with full back wages.

I answer the reference while returning the same in this terms.

Dated 31st March, 1980.

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Haryana, Rohtak.

Endorsement No. 1150, dated 17th April, 1980.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act.

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 11(112)-80-3Lab/6076.—In pursuance of the provision of section-17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s Bishwa Nath Industries Ltd., Faridabad.

**BEFORE SHRI NATHU RAM SHARMA PRESIDING OFFICER INDUSTRIAL
TRIBUNAL HARYANA FARIDABAD**

Reference No. 37 of 1976

Between

**THE WORKMEN AND THE MANAGEMENT OF M/S BISHWA NATH
INDUSTRIES LTD., FARIDABAD**

Present :—

Shri R. N. Roy, for the workmen.

Shri R. C. Sharma, for the management.

AWARD

1. By order No. ID/FD/31-B-75/3059, dated, 23rd January, 1976 the Governor of Haryana referred the following dispute between the management of M/s Bishwa Nath Industries Ltd., Faridabad and its workmen to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the workmen are entitled to the grant of bonus for the period from 1st January, 1971 to 31st December, 1974 ? If so, with what details ?

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 11th August, 1976 :—

- (1) Whether the financial year of the management begin from 1st July of every year and as such the reference in respect of the entitlement of the workmen of bonus for the period from 1st July, 1974 to 31st December, 1974 is premature ?
- (2) Whether the reference in respect of the entitlement of the workmen of the bouns for the period from 1st July, 1973 to 30th June, 1974 is premature ?
- (3) Whether the workmen are entitled to the grant of bonus for the period from 1st January, 1971 to 31st December, 1974 ? If so, with what details ?

Issue No. 3 was recast as follows,—*vide* my separate order dated 2nd May, 1978 :—

- (3) Whether the workmen are entitled to the grant of bonus for the period from 1st July, 1971 to 30th June, 1974 ? If so, with what details ?

3. Issues No. 1 and 2 were also decided,—*vide* my said order, dated 2nd May, 1978. Thereafter the parties obtained several adjournments or one or the other reasons. The management examined Shri P. D. Khajanchi, as Ex. MW-1 their Accountant, who proved balance sheet and Audit report Ex. M-1 to Ex. M-4. He also proved article of association Ex. M-5. There was paper division of this management in the year 1974-75. He told that management is one and the same but accounts are maintained separately and workers are not transferred from this factory to the paper division and vice-versa. MW-1 stated that this factory was not working at present. It was running into losses continuously and therefore, they sold it to another person. He also deposed that there was not a single workman on the rolls in the factory at the time he deposed and that there was no other unit manufacturing anything. In cross examination he stated that the vendees were running this factory in the name of M/s Industrial Breathers. He had not brought the copy of sale deed, but could produce it. The workmen examined their representative Shri R. N. Roy as WW-1 who proved demand notice, letter of authority Ex. W-2. He stated that the management did not produce the balance sheet and the profit and loss account, although he had demanded. He stated that the management had made provision for payment of bouns @ 8.33% for this period. The management has not stated that the factory was exempted from payment of bonus and was in its infancy period. In these circumstances, I think, that the workmen are entitled to bonus at minimum rates fixed and declared by the Government for the year from 1st July, 1971 to 30th June, 1974. The minimum rate of bonus during that period was 8.33%.

4. While answer the reference, I give my award that the workmen are entitled to the grant of bouns for the period from 1st July, 1971 to 30th June, 1974 @8.33%. No further details are necessary.

Dated : 9th April, 1980.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal,
Haryana Faridabad.

No. 370, Dated 18th April, 1980

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

No. 11(112)-80-3Lab/6084.—In pursuance of the provisions of section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s Deepak Tools, Private Limited, 96-D. L. F., Mathura Road Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL HARYANA, FARIDABAD

Reference No. 200 of 1976

between

SHRI GANESH PARSHAD WORKMAN AND THE MANAGEMENT OF M/S. DEEPAK TOOLS PRIVATE LIMITED, 96 D. L. F., MATHURA ROAD, FARIDABAD

Present.—Shri R. L. Sharma, for the workman.

Shri D. R. Mahajan, for the management.

AWARD

1. By order No. ID/FD/1073-C-76/34518, dated 21st September, 1976 the Governor of Haryana referred the following dispute between the management of M/s Deepak Tools Private Limited, 96 D.L.F. Mathura Road, Faridabad and its workman Shri Ganesh Parshad, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Ganesh Parshad, was justified and in order ? If not, to what relief is he entitled ?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 4th May, 1977:—

1. Whether the workman served the management with a demand notice properly? If not, to what effect?
2. Whether the workman lost his lien by absenting himself for 10 consecutive days as per Model Standing Order?
3. Whether the termination of services of the workman concerned was justified and in order? If not, to what relief is he entitled?

3. The workman obtained 6-7 adjournments and lastly proved the demand notice Ex. W-1. Thereafter a date fixed in the case was declared public holiday and therefore, notices were again sent to the parties. The representative for the workman appeared but the management was not served for long. Lastly the management was served. But they did not appear despite service hence they were proceeded against *ex parte*. The workman again obtained 3-4 adjournments but could not adduce any evidence and in the meantime, the management moved for setting aside *ex parte* proceedings which were set aside subject to payment of costs, which were paid, but the management again absented on 3rd July, 1979, although on the previous date, adjournment was granted on their request. Evidence of the workman was then recorded *ex parte*. I had then given an *ex parte* award in this case dated 28th July, 1979 which was sent to the Government for publication on 3rd August, 1979. The management again moved an application for setting aside *ex parte* award which was set aside subject to payment of costs and also costs ordered previously which were paid. And the case was fixed for the evidence of the management. Then the management examined Shri Deepak Manajan their Managing Director as MW-1 and closed their case. Then the case was fixed for the evidence of the workman. The workman did not appear, nor led any evidence. His evidence was then closed. Arguments of the management were heard.

4. MW-1 the Managing Director, of the management has stated that the workman was appointed,—*vide* Ex. M-1 on 2nd May, 1976. The workman remained absent from 21st June, 1976 to 26th July, 1976 for about one month and five days, hence his name was removed from the rolls. The management called the workman for joining duties,—*vide* Ex. M-2 to Ex. M-5. The evidence of the management is reliable and documentary. The workman had only some days service at his credit and therefore,

removing his name from the rolls for being absent for one month and five days was not improper. The management could well remove his name from their rolls and thus could terminate his service within their rights which they did. I, therefore, give may award that the termination of services of the workman was justified and in order. He is not entitled the any relief.

NATHU RAM SHARMA,

Dated 15th April, 1980.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 366, dated 18th April, 1980.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 11(112)-80-3Lab/6154.—In pursuance of the provision of section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s Usha Electronics (India) (P) Ltd., Sector-25, Ballabgarh.

**BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL
HARYANA, FARIDABAD**

Reference Nos. 4 and 27 of 1979

between

SARVSHRI KARAN SINGH, RAJINDER KUMAR, WORKSMEN AND THE MANAGEMENT
OF M/S USHA ELECTRONICS (INDIA) (P) LTD., SECTOR 25 BALLABGARH

Present.—

Shri H. S. Yadav, for the workman.

Shri R. C. Sharma, for the management.

AWARD

1. By order No. FD/126-78/783, dated 5th January, 1979, the Governor of Haryana referred the following dispute :—

Whether the termination of services of Shri Karan Singh, was justified and in order? If not, to what relief is he entitled?

2. By order No. FD/12-78/1099, dated 8th January, 1979 the Governor of Haryana referred the following dispute :—

Whether the termination of services of Shri Rajinder Kumar was justified and in order? If not, to what relief is he entitled?

between the management of M/s. Usha Electronics (India) Pvt. Ltd., Sector 25, Ballabgarh and its workmen Sarvshri Karan Singh and Rajinder Kumar, to this Tribunal, for adjudication in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act.

3. On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, issues were framed and the case was fixed for the evidence of the management. Several adjournments were granted to the management some time subject to payment of costs and some time without costs. Lastly negotiations for settlement started and the same was arrived at. The workman resigned and left for good after receiving his full and final account. Ex. M-1 and M-2 are placed on the file. The representative for the workman has also agreed to the settlement.

I, therefore, give my award that the management did not terminate the services of the workman, rather the workman has resigned of his own and has received all his dues in full and final settlement and has left for good. He is not entitled to any relief.

Dated: 15th April, 1980.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 365, dated 18th April, 1980.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 25th April, 1980

No. 11(112)-80-3 Lab/6264.— In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act, No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial, Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s Sehgal Puri Private Ltd., Mathura Road, Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 421 of 1978

between

SHRI KISHORI LAL, WORKMAN AND THE MANAGEMENT OF M/S SEHGAL PURI PRIVATE LTD., MATHURA ROAD, FARIDABAD

Present.—

Shri P. K. Das, for the workman.

Shri S. L. Gupta, for the management.

AWARD

1. By order No. ID/FD/1/46-78/41733, dated 14th September, 1978, the Governor of Haryana referred the following dispute between the management of M/s. Sehgal Puri Private Ltd., Mathura Road, Faridabad and its workman Shri Kishori Lal, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Kishori Lal was justified and in order ? If not, to what relief is he entitled ?

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 26 March, 1979 :—

- (1) Whether the workman has received a sum of Rs. 1,200 in full and final settlement of his claims ? If so, to what effect ?
- (2) Whether the workman is gainfully employed and turning a Tea and refreshment ?
- (3) Whether the termination of services of the workman was justified and in order ?
- (4) Relief.

And the case was fixed for the evidence of the management. The management examined Shri Ram Bahadur Chowkidar as MW-1 and closed their case. Then the case fixed for the evidence of the

workman. The workman examined himself as WW-1 and closed his case. Then the case fixed for hearing of arguments. Arguments have been heard. Now I give my finding issueswise :—

3. MW-1 deposed that some altercations were going on between Shri Davinder Jha, workman of that management and the Security Officer. The concerned workman Shri Kishori Lal reached there in the meantime. And thereafter he together with Shri Davinder Jha went out of the gates to the union office giving an application at the gates. They came back after 15 minutes and then threatened and abused MW-1 and the Security Officer, and also threatened to beat and assault both of them. Abuses hurled was by mother and sister. Then a complaint in writing was made. He also stated that Shri Davinder Jha had left the services of the management after receiving all his dues and claims. The Security Officer was also no more in service. He also left the services of the management. He admitted that Shri Dharambir was in the employment of the management. He gave the time of occurrence. He admitted that one Shri Trilok Chand was also in the employment of the management who was also present at the time of the occurrence. Shri Daya Krishan was also an eye witness. Sarvshri Krishan Lal and Davinder Jha were also there. On that day, both the workmen and Shri Davinder Jha had made application for leave at 9.00 A. M. and had gone away. Leave was not sanctioned but they left the factory putting the leave application on the table of the Security Officer. In cross-examination he also stated that Shri Davinder Jha and the workman concerned quarreled with the Security Officer. In cross-examination he stated that Shri Kishori Lal abused the Security Officer outside the factory and not inside and he was present at that time. He stated that the occurrence had taken place at the gates but just outside. He admitted that Shri Kishori Lal was General Secretary of the union. The management also proved Ex. M-1 and M-2. The workman admitted his signatures on the vouchers witnessing payment of Rs. 1,200 only and also receipt of the side sum of Rs. 1,200. The workman stated that his services were terminated without any reason. He had received the charge-sheet 10 days after termination. He stated that no domestic enquiry was held. In cross-examination he admitted that Chowkidar had stopped his gate entry as per instructions from higher authorities. He denied that he had assaulted. I have seen Ex. M-1 the voucher witnessing payment of Rs. 1,200 to the workman. Ex. M-2 is the charge-sheet issued to the workman. It is correct that no domestic enquiry was held. But if the management proves their case on merits before this Tribunal, they can do so. The management has examined Shri Ram Bahadur, Chowkidar as MW-1 to prove the merits of act of terminating the services of the workman. There is no material discrepancy in the statement of MW-1. The cross-examination of MW-1 has also not brought out any material discrepancy. The defence of the workman is only that he had formed the union and he was General Secretary of the union but he had not proved any documentary evidence in support of his holding the office as General Secretary of the trade union. I have now to decide the case issueswise :—

Issue No. 1.—

The voucher has been admitted by the workman himself. Payment of Rs 1,200 has also been admitted by the workman concerned. I, therefore, decide issue No. 1 in favour of the management. The wage of the workman was Rs 300 per mensem.

Issue No. 2.—

There is no evidence on issue No. 2, hence I, decide this issue against the management.

Issue No. 3.—

The management have terminated the services of the workman on the ground that the workman Security Officer. The Security Officer had left the services of the management. Moreover, the together with another workman assaulted and abused MW-1 and the workman has received a sum of Rs 1,200 from the management on 6th July, 1978 two days after demand notice. Which proves that the workman by accepting a sum of Rs 1,200 from the management has settled his dispute full and finally. I, therefore, decide this issue accordingly.

4. While answering the reference, I give my award that the workman has received a sum of Rs 1,200 from the management after he gave the demand notice and has thus settled his dispute. He is not entitled to any other relief.

Dated 7th April, 1980.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.